

Minutes of Special and Regular Meeting of February 24, 2009

SPECIAL MEETINGS

CLOSED SESSION - 6:00 P.M.

- A. Conference with Real Property Negotiator Crist pursuant to Government Code Section 54956.8: Two Parcels, APN 045-380-010, and APN 045-162-020 concerning price and terms of payment
- B. Conference with Legal Counsel Pursuant to Government Code Section 54956.9(b) Initiation of Litigation, One Case
- C. Conference with Legal Counsel Pursuant to Government Code Section 54956.9(a) Existing Litigation, One Case: City of Belmont v. Grover
- D. Conference with Labor Negotiator, Jack Crist, pursuant to Government Code Section 54957.6: MMCEA

Attended by Councilmembers Feierbach, Wozniak, Braunstein, Dickenson, Lieberman, City Manager Crist, City Attorney Zafferano, Community Development Director de Melo, Finance Director Fil, Public Works Director Davis, Police Chief Mattei, and Human Resources Director Dino. City Clerk Cook was excused from attending.

ADJOURNMENT at this time, being 7:25 P.M.

Terri Cook
City Clerk

This meeting was not tape recorded or videotaped.

REGULAR MEETING
CALL TO ORDER 7:30 P.M.

ROLL CALL

COUNCILMEMBERS PRESENT: Feierbach, Dickenson, Lieberman Wozniak, Braunstein

COUNCILMEMBERS ABSENT: None

Staff Present: City Manager Crist, Community Development Director de Melo, Public Works Director Davis, Finance Director Fil, Human Resources Director Dino, Police Chief Mattei, City Treasurer Violet, City Clerk Cook.

PLEDGE OF ALLEGIANCE

Led by Leslie Toy from the American Red Cross.

REPORT FROM CLOSED SESSION

City Attorney Zafferano reported that direction was given but no action taken during the closed sessions held earlier.

SPECIAL PRESENTATIONS

Peninsula Partnership Leadership Council's Bill of Rights for Children and Youth of San Mateo County

Police Lieutenant Pat Halleran introduced Members of the Peninsula Partnership Leadership Council. He noted that a resolution adopting the Council's Bill of Rights is included on the Council's Consent agenda this evening.

Michael Garb, Peninsula Partnership Leadership Council, described the history of the organization, and noted that its goal is to foster healthy development of children. He noted that many agencies have adopted its Bill of Rights.

Declaration of American Red Cross Month

Mayor Braunstein presented the Proclamation Declaring March as American Red Cross Month.

Leslie Toy, American Red Cross, stated that she coordinates volunteers for the local chapter of the Red Cross. She noted that Belmont is fortunate in that it does not need their services very often. She described the upcoming Heroes Breakfast. She outlined the numbers of people in San Mateo County who have been recently trained in first aid and CPR. She described the assistance given by the Red Cross to fire victims.

PUBLIC COMMENTS AND ANNOUNCEMENTS

John Violet, Friends of the Belmont Library (FOBL), outlined the upcoming events at the Belmont Library sponsored by FOBL.

COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS

Councilmember Wozniak stated that she attended the awards ceremony for three young men who earned their Eagle Scout.

Councilmember Lieberman noted that two new restaurants have opened in Belmont.

Mayor Braunstein announced that he would be continuing the tradition of monthly Community Lunches with the Mayor. He noted that he recently judged a speech competition sponsored by the Belmont Lions Club. He mentioned that the Council would be holding another set of interviews for candidates for City commissions.

Mayor Braunstein announced that tonight's meeting would be adjourned in memory of Dino Markette, a Public Works employee who died unexpectedly. He provided a brief background of Mr. Markette's experience with the City of Belmont, and described his surviving family.

AGENDA AMENDMENTS

Mayor Braunstein noted that New Business Item 7-B (Consideration of a Motion calling for a Public Hearing to review Planning Commission action regarding T-Mobile Wireless Telecommunications facility) would be considered immediately following the Consent Agenda.

Councilmember Lieberman requested the removal of Consent Item 4-C (Resolution Authorizing a Revised Cooperative Agreement for the U.S. Highway 101 Bicycle/Pedestrian Bridge Project) to be removed for separate consideration.

ITEMS APPROVED ON CONSENT CALENDAR

Approval of Minutes of Special and Regular Meeting of January 13, 2009, and Minutes of Special Meeting (Council Workshop) of January 24, 2009

Approval of Resolution 10091 Adopting the Peninsula Partnership Leadership Council's Bill of Rights for Children and Youth of San Mateo County

Approval of Resolution 10092 Accepting Work, Approving As-Built Plans, and Authorization to Issue a Notice of Substantial Completion for the Mountain View Emergency Sewer Rehabilitation Project, City Contract Number 496

Approval of Resolution 10093 Authorizing the Filing of an Application for Federal American Recovery and Reinvestment Act of 2009 (ARRA) Funding with the Metropolitan Transportation Commission (MTC) for the 2009 Belmont Overlay Project in the Amount of Approximately \$446,000 and Stating the Assurance of City of Belmont to Complete the Project

Approval of Resolution 10094 Authorizing the City Manager to Enter into a Professional Services Agreement for Landscape Architect Services for Semeria Park

Approval of Resolution 10095 Authorizing the City Manager to Enter into a Professional Services Agreement for Landscape Architect Services for Davey Glen Park

ACTION: On a motion by Councilmember Dickenson, seconded by Mayor Braunstein, the Consent Agenda was unanimously approved, as amended, by a show of hands.

Councilmember Feierbach requested that the proposed community meeting regarding the landscape plans for Semeria Park (item on Consent Calendar, Resolution 10094) be held on a Saturday.

Mayor Braunstein requested that Resolution 10091 (Bill of Rights for Children and Youth) be kept active throughout the organization so that the City Council does not just adopt it and forget it.

ITEMS REMOVED FROM CONSENT CALENDAR FOR SEPARATE CONSIDERATION

Resolution Authorizing the City Manager to Enter into a Revised Cooperative Agreement between the State of California and the City of Belmont for the U.S. Highway 101 Bicycle/Pedestrian Bridge Project, City Contract Number 433

In response to Councilmember Lieberman's questions, Public Works Director Davis clarified that the project was first proposed approximately eight years ago, and was estimated to be about \$2.5 million at the time. The current estimate is \$8.185 million.

Councilmember Lieberman stated that he raised this issue, because the money raised to date for this project is more than the original estimate, and is still not fully funded. He expressed concern whether the bridge will ever be able to be built, and he suggested if other alternatives, which he described, could be explored.

Councilmember Dickenson stated this is an urgent situation, and he noted that the City Council may need to modify the project.

Councilmember Wozniak stated that the alternates proposed may not be feasible. There is a need to address safety for bikes and pedestrians across Highway 101. This bridge could alleviate school traffic as well.

Councilmember Lieberman stated that he supports any solution that addresses safety.

ACTION: On a motion by Councilmember Lieberman, seconded by Councilmember Dickenson, Resolution 10096 Authorizing the City Manager to Enter into a Revised Cooperative Agreement between the State of California and the City of Belmont for the U.S. Highway 101 Bicycle/Pedestrian Bridge Project, City Contract Number 433 was unanimously approved by a show of hands.

NEW BUSINESS (Item taken out of order on Agenda)

Consideration of a Motion calling for a Public Hearing to review Planning Commission action from February 3, 2009, Public Hearing regarding Conditional Use Permit and Design Review to install a T-Mobile Wireless Telecommunications facility. Call up pursuant to Municipal Code Section 1-11.

Community Development Director de Melo described the Planning Commission's review and approval of this application. He explained the call-up procedure pursuant to the Municipal Code, and that the City Council can decide whether or not to review this application. If there are three votes to review it, a formal public hearing would be scheduled for March 10.

Mayor Braunstein polled the audience to ask who was in favor of the Council's review, and who was against. There were 17 in favor and two opposed. He noted that public comments should address the question of whether or not to review the project and not on the merits of the project itself.

David King, Belmont resident, expressed his support for the Council's review of this project.

Robert Miller, Belmont resident, stated that the project merited a second look by the City Council.

Christopher Wright, Belmont resident, expressed his support for the City Council's review, and requested additional information regarding what other transmissions are used by T-Mobile.

Stanley Guan, Belmont resident, expressed support for the City Council to review this application. He pointed out that there was no noise report included in the environmental documents. He expressed concern regarding the stability of the water tank, and with the risk of fire due to the proposed installation of an air conditioning unit. He described the potential health concerns associated with cell towers.

Valerie Price, Belmont resident, stated that the Planning Commission received misleading information from T-Mobile. She shared a photo of the water tank as seen from her yard, which provides a different perspective than photos shown at the Planning Commission meeting. She expressed concerns regarding noise.

Nicole Loomis, Belmont resident, stated she is against the tower and in support of the City Council's review.

Shujane Lee, no address provided, expressed support for a new hearing, and commented that the reasons given to approve the project did not make sense.

Ben Davies, on behalf of T-Mobile, expressed support for the project. He noted that the span of the Planning Commission's review covered two years and four hearings. The reasons for approval have been justified. The emissions fall below the FCC's standards (Federal Communication Corporation). There is no new information to provide.

Councilmember Feierbach stated that her issues relative to this project include: whether or not school sites can be used for cell tower installation, zoning of the property on which the tower sits, square footage of the auxiliary building, whether or not this is the best location for a cell tower, how many home sales currently exist in the area, whether this cell tower has a wi-fi option, how many more cell towers could be installed at this location, and the effect of cell towers on children.

Councilmember Lieberman outlined the reasons he requested to call this item up for review. He noted that the law is clear regarding what can and cannot be regulated regarding cell towers. He acknowledged that the law does not allow regulation of cell towers based on electromagnetic radiation frequency (EMF), and he does not need an EMF analysis if that information cannot be used to deny an application. He expressed concerns regarding the Council's ability to evaluate the application solely on information provided from T-Mobile, and suggested seeking outside independent expertise. He disclosed that he attended the Planning Commission hearing wherein this item was discussed. He subsequently met with City staff to further discuss the issue, and he has discussed it with members of the public who contacted him. He questioned whether the cell tower was necessary, and if so, whether other non-residential sites may fulfill T-Mobile's needs. He clarified that he would be reluctant to recommend moving the tower to another residential neighborhood.

Councilmember Feierbach concurred with the desire to seek an outside consultant regarding this. She noted that she, too, attended several of the Planning Commission meetings when this topic was discussed, and has been corresponding with residents regarding this matter.

Councilmember Wozniak stated that she was a member of the Planning Commission when this application first arose, and she participated in the hearing process for other cell applications. She expressed concerns regarding cumulative noise levels and other environmental issues. She would like information regarding alternative technologies and whether this cell site is necessary. She is in favor of Council's review of this matter.

Councilmember Dickenson concurred with the need for an outside consultant. He requested a spectrum analysis for the neighborhood. He noted that federal legislation regulating cell towers is outdated. He has spoken with several residents. He expressed concern regarding the radiation issue, and would like more information about it. Council may want to pass along to federal legislators its concern that legislation should be updated.

Mayor Braunstein stated that he, too, has communicated with some of the residents regarding this matter. This is a health and safety issue. If the EMF studies are a concern to the Council, those concerns should be passed on to federal legislators. He concurs that the City does not have jurisdiction over this issue.

ACTION: On a motion by Councilmember Lieberman, seconded by Councilmember Feierbach, and unanimously approved by a show of hands to hold a hearing of the City Council on March 10, 2009, to review Planning Commission action from February 3, 2009, Public Hearing regarding Conditional Use Permit and Design Review to install a T-Mobile Wireless Telecommunications facility.

RECESS: 8:29 P.M.

RECONVENE: 9:35 P.M.

OLD BUSINESS

Continued Discussion and Direction on Proposed Ballot Measure for Parks and Open Space

Mayor Braunstein and Councilmember Wozniak stated that because they live within 500 feet of property that could be subject to this proposed ballot measure, they need to continue to recuse themselves on this item. Mayor Braunstein passed the gavel to Councilmember Feierbach to run the meeting.

Mayor Braunstein and Councilmember Wozniak stepped off the dais and out of the room.

City Attorney Zafferano stated that this matter was continued from January 27, 2009, so that additional information could be provided. Staff has begun a search of deed information for all of the proposed parcels. He noted that the Parks Master Plan distinguishes between the use of the parks and the use of open space. Swapping uses between those two is not consistent with the Master Plan, although it would be permissible to make a parcel less intense in its use. He recommended that the proposed ballot measure apply only to parcels that are owned by the City and to any future parcels acquired by the City for parks or open space. He also recommended rezoning the existing parcels into one or two new zoning districts, and to tie the uses of those parcels to the Parks Master Plan and the General Plan as both currently exist or may be amended in the future. As an alternative, Council could define the uses if desired for flexibility or to provide protection. The proposed ordinance, if passed by the voters, would then require voter approval to sell, exchange, or encumber any of the designated parcels.

City Attorney Zafferano clarified that should the Council wish to pursue this matter, additional information would be required, and he outlined the timeline in order for this item to be placed on

the November 2009 ballot. He noted that staff could take steps regarding the rezoning, regardless of whether or not this moves forward to a ballot measure.

Rudy Helin, San Juan Canyon property owner, requested clarification regarding the affects of this proposed ballot measure on private property.

City Attorney Zafferano clarified that the proposed ballot measure only affects City-owned parcels.

Patty Ciesla, Passion Trail Bikes, stated that there is a need to determine the ownership of property near Ralston Middle School and Waterdog Lake. There may be a desire for more intense use of some open space.

City Attorney Zafferano stated that the General Plan and Parks Master Plans define five kinds of open space, including for both passive and active recreational purposes.

Judy King, Belmont resident, recommended outlining the proposed uses within the ballot measure language itself rather than requiring voters to have to refer to another document such as the General Plan.

Councilmember Dickenson expressed his desire to move forward with this ballot measure.

Councilmember Lieberman stated he has spoken to staff and to sports groups regarding this matter. He noted that the purpose of this ballot measure is to preserve open space and parks.

Councilmember Feierbach noted that Oracle is not interested in any exchange of property near the ball fields at the Sports Complex.

Councilmember Lieberman expressed concerns that all options as presented by City Attorney Zafferano would require a vote of the people, and he asked if the Council would be interested in potential land exchanges for parks or open space absent that vote.

Councilmember Feierbach stated that she is not interested in exempting land exchanges from this proposed ordinance. It should be put to a vote of the people. The City Council is a steward of land, and it needs to exercise care. This is for the future of Belmont.

Discussion ensued regarding land exchange scenarios.

Councilmember Dickenson stated that the vote of the people needs to be understood, and he recommended simplifying the ballot language. He concurs that the proposed ballot should apply to the 18 proposed parcels and any parcels acquired in the future. There is a need to define whether the parcels are deemed park and recreation space, or open space. Should the ballot measure be successful, defined uses of the identified parcels should be included in the General Plan. He supports encumbering parcels only for the acquisition of new parks or open space. He also noted that there may be a desire to do an exchange if the new parcel is contiguous, for flexibility.

Councilmember Feierbach expressed her desire not to turn park space into open space, as there is a need for recreation.

Councilmember Lieberman recommended inclusion of a parcel tax or other resource in order to continue to maintain or to improve the identified parcels. He stated that he would actively campaign for this measure if that were to be included.

Councilmember Feierbach expressed concern regarding adding any cost to this measure. She noted that as it is currently proposed, there is no cost to property owners.

Councilmember Dickenson stated that he will not support any cost, as suggested. He noted that sewer and garbage rates are going up.

Councilmember Lieberman stated there is no time sensitivity regarding this ballot measure. If park use is governed by the General Plan, only three votes are needed to change the use, which may represent a loophole. There is a need for resources to maintain parks and open space.

ACTION: Councilmember Feierbach made a motion, seconded by Councilmember Dickenson, to direct staff to write a ballot measure as outlined, to define the parks and open space uses in the ballot measure, and to include verbiage regarding the acquisition of contiguous parcels.

Councilmember Dickenson stated that he respects Councilmember Lieberman's desire to fund recreation programs and improve parkland.

Councilmember Lieberman stated that it is his desire to go to the voters only once on the same ballot, and to tie the two issues together.

City Attorney Zafferano clarified that the Council would have the ability to include both preservation and funding through a parcel tax, if desired.

ACTION: On the previous motion, passes on a roll call vote (2-0-1, Lieberman abstain).

Councilmember Lieberman stated that he will never vote against parks and open space.

RECESS: 9:17 P.M.

RECONVENE: 9:18 P.M.

Councilmember Wozniak and Mayor Braunstein returned to the dais.

NEW BUSINESS

Partnership Trail Improvements Project at Waterdog Lake

Parks and Recreation Director Gervais reviewed the Waterdog Lake trail map and described the loop trail that surrounds the lake. He outlined the cost savings if the trail improvements are to be done by volunteers. He noted that realigning the trail would address environmental concerns and restore natural resources. He outlined the scope of the project, and noted that it provides

additional recreation and open space opportunities, which achieves the mission of the department.

Nikki Fox, landscape architect, described the trail construction, including a bridge over the existing dam spillway.

Councilmember Lieberman suggested connecting the new trail to the existing trail to avoid having to backtrack, and to stay as close to the lake as possible.

Parks and Recreation Director Gervais stated that there is a steep grade in the area and he expressed concern regarding erosion, but the suggestion would be taken under advisement. He clarified that some clearing has already been done in advance of this project, he outlined the project timeline.

Mayor Braunstein recommended utilizing high school students who are required to perform service hours. He expressed concern regarding the intensification of use and bike speed in the Hidden Valley area adjacent to the lake.

Patty Ciesla, Passion Trail Bikes, expressed support for the project. Volunteers have been recruited through her bike shop. Bike users saw a need for realigning the trail, which is less strenuous than other trails in the area. She welcomes the use of high school volunteers.

In response to Councilmember Feierbach, Parks and Recreation Director Gervais clarified that if the lake were dredged and became larger, it would not impact the new trail.

COMMISSION, COMMITTEE, AND COUNCIL INTERGOVERNMENTAL ASSIGNMENT UPDATES, AND STAFF ITEMS

Resolution Approving Investment Policy

City Treasurer Violet stated that the City Council is required to approve the Investment Policy on an annual basis. The policy's goal is to safeguard the City's assets, and the order of priority of investment is safety, liquidity, and yield. He noted that the Finance Commission has discussed the proposed policy and has recommended approval.

Councilmember Dickenson thanked City Treasurer Violet for the good job he does as Treasurer. He noted that the Audit Committee and the financial adviser provide many levels of review.

City Treasurer Violet responded that he has a fiduciary responsibility for the public's money. Belmont has been fortunate to not be suffering the losses as those invested in the County investment pool.

In response to Mayor Braunstein, City Treasurer Violet described the internal audit controls that are in place.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Wozniak, Resolution 10097 Approving Investment Policy was unanimously approved by a show of hands.

Verbal report from Council members on Intergovernmental (IGR) and Subcommittee Assignments

Councilmember Lieberman stated that the funding for the sewer capital improvement project was discussed at the recent South Bayside System Authority (SBSA) meeting. He noted that a recent storm resulted in a leakage at the plant, which is an indication of the need for the project. He commended SBSA staff for their immediate handling of the leak.

Councilmember Feierbach requested that staff provide a report on recent Economic Development Committee work.

Finance Director Fil reported that the request for quote (RFQ) process for Firehouse Square was suspended, as only six proposals were received. He noted this is a reflection of the downturn in the economy.

Verbal Report from City Manager/Information Report on the Rollout of the New Street Signs

City Manager Crist noted that all the new street signs have been installed except those at Cal Trans intersections. He reported that there is an item on the Foster City Council agenda next week regarding the transfer of PG&E Rule 20A funds. He announced the upcoming Infrastructure Meeting wherein the Alameda de las Pulgas restriping would be discussed. He thanked the City Council for adjourning its last meeting in memory of Dino Markette, a City employee who recently passed away.

MATTERS OF COUNCIL INTEREST/CLARIFICATION

Discussion regarding taking a position on County-wide high-speed rail issue (Braunstein)

Mayor Braunstein stated that the Menlo Park City Council has invited other cities to participate in a joint effort regarding the proposed high-speed rail project. He recommended that the Infrastructure Committee address this issue. He noted that this is not as high on Belmont's radar as it is in other cities.

Councilmember Wozniak expressed her support for this, and she noted that comments regarding high-speed rail have been made at recent city council meetings.

Councilmember Dickenson expressed concerns regarding the lawsuits filed by Menlo Park and Atherton in conjunction with rail issues, and he urged caution on partnering with them. He concurs with the need for Belmont to be involved in the high-speed rail project.

Council concurred to have the Infrastructure Committee look into this matter.

To explore solutions for issues regarding rental properties (Feierbach)

Councilmember Feierbach requested that this item be continued.

ADJOURNMENT at this time, being 10:01 P.M., in memory of Dino Markette, a Public Works employee who died unexpectedly.

Cook
City Clerk

Terri

Meeting Tape Recorded and Videotaped
Audio Recording 720